

**N.D.A.G. Letter to Lindell (April 24, 1986)**

April 24, 1986

Mr. William F. Lindell  
Riverdale City Attorney  
P.O. Box 427  
Washburn, ND 58577

Dear Mr. Lindell:

Thank you for your letter of April 10, 1986, inquiring as to the status of land transferred from the federal government to the city of Riverdale pursuant to federal legislation adopted as part of the Supplemental Appropriations Act of 1985. The concern that has been raised involves the disposition of the land by the city of Riverdale and whether such disposition should occur pursuant to state law or in light of the federal statute providing for the original transfer of the land.

The Supplemental Appropriations Act of 1985, in arranging for the transfer of the land in question to the newlycreated city of Riverdale, states that no limitations or restrictions shall apply to use or disposition of such land as transferred to a municipal corporation. Pub.L. No. 99-88, 99 Stat. 293, 318 (1985). North Dakota law, as found at N.D.C.C. §§ 40-11-04, 40-11-04.1, provides for restrictions and limitations on the disposition of land by a municipal corporation.

In light of the supremacy clause of the United States Constitution and given the case law as to the broad impact and scope of the supremacy clause, it is my conclusion that the manner of the sale and disposition of land transferred to the city of Riverdale has been preempted by Congress. As such, it is my opinion that N.D.C.C. §§ 40-11-04, 40-11-04.1 cannot be applied to the sale of land conveyed by the federal government to the city of Riverdale in accordance with the requirements of the Supplemental Appropriations Act of 1985.

Sincerely,

Nicholas J. Spaeth

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